

THE CITY SOLICITOR'S OFFICE

by SIMON E. SOBELOFF

University of Maryland LL.B., 1914. Assistant City Solicitor, 1919-1924; Deputy City Solicitor, 1927-1931; appointed by President Hoover United States Attorney for Maryland, 1931-1934. Member Board of Directors Associated Jewish Charities; Impartial Arbitrator Men's Clothing Industry of Baltimore; member of numerous Civic and Charitable Boards.

THE City Solicitor is the City's chief law officer—and he is much more than that. The mere enumeration in the City Charter of the duties and responsibilities vested in that official is sufficiently impressive, but they can convey no adequate idea of the extent and the ramification of his official activities. In addition to the vast jurisdiction granted the City Solicitor by the Charter, custom and practice have built up around him a sphere of responsibility and influence which touches virtually every action of the municipality and its officers. He is called upon to deal with many problems unrelated, except by the most tenuous thread, to the duties explicitly fixed for him by law. Aside from the strictly legal duties of the City Solicitor, he also has a voice in the formation of municipal policy, and many matters that one would normally suppose to be within the sole province of the City Council or one of the executive departments are really left to the determination of the City Solicitor. Thus, the City Solicitor has become the mainspring in the administration of municipal affairs.

It is provided in the Charter that the City Solicitor shall be the legal adviser of the Mayor and City Council of Baltimore and its several departments, special commissions or boards. For every formal opinion that he is called upon to give officially there are scores of problems as to which he is consulted by the several departments and officials of the City government, and in respect to many of them he is the final arbiter. The Mayor, the City Council, and the department heads have the right under the law to call

on the City Solicitor for legal advice, and he is constantly consulted by them in the preparation of contracts, specifications, advertisements, and bonds in connection with municipal improvements. Rarely is a form adopted in any of the executive departments of the City without the prior consultation of the City Solicitor or one of his assistants as to the possible legal consequences that may flow from the use of that form. Inasmuch as the City government derives its power from a charter granted by the Legislature, and the authority of each official of the government is limited by that charter, there are far more occasions for municipal officials to seek the advice and direction of a lawyer than is the case in private business enterprise.

Scarcely more than a generation ago, the City Solicitor, and perhaps one assistant, constituted the entire Law Department of the City of Baltimore. It is within the memory of living men when the City Solicitor was actively engaged in the private practice of his profession and would visit the City Hall only occasionally. He had no need for assistants or for any considerable clerical force. Even as recently as 1913, after the business of the City had been vastly expanded because of a large program of municipal improvements, the Law Department consisted of a City Solicitor, a Deputy City Solicitor, three assistants, and one general assistant. The clerical force listed six stenographers, two clerks, and an office boy. Today the City Solicitor is at the head of the largest law office, public or private, in the State of Maryland. In addition to the Deputy City Solicitor, there are sixteen assistants, a claim adjuster, three private investigators whose duty it is to investigate negligence claims lodged against the City, an assistant title examiner, a law clerk, an information clerk, a messenger, and a corps of fourteen stenographers. Augmenting this array, the City Solicitor from time to time employs special assistants when the exigencies of the City's legal business requires it.

This striking growth in the volume of the City's legal business has been contributed to by several factors. First, the Annexation Act of 1918 brought to Baltimore not only a great accession of territory but also a multiplicity of problems growing out of the necessity for the rapid extension of municipal services therein.

Then, moreover, the past two decades since the beginning of the World War have witnessed in Baltimore, as elsewhere, a huge program of public improvements that include the construction of new elementary and high schools, engine houses, water works, sewage and garbage disposal facilities, paving, and park extensions. These activities greatly enlarged the temporary and the permanent volume of municipal business, and all of them had their inevitable reflection in the activities of the City's Law Department.

While the City Council of Baltimore is known as the legislative branch of the City government, a very important part of the legislative power is reserved under the unique provisions of our Charter to the Board of Estimates. The City Solicitor sits as one of the five members of that Board. As such he has an important influence in the preparation of the annual budget ordinance. The City Council may reduce or eliminate any item provided for in the ordinance by the Board of Estimates, but it cannot add new items or increase any sum provided for by the Board of Estimates. This Board has largely enhanced its control over municipal activities by the growing practice of making appropriations for specific purposes to be used in its discretion or under its direction. The Board of Estimates by this device manages to retain a large control over the City's expenditures, not only in the formulation of the budget ordinance but in the actual application of the appropriations.

There are many municipal permits and privileges with respect to the use of streets and the enjoyment of franchises which lie within the power of the Board of Estimates to grant, and as a member of that Board the City Solicitor exercises an important power.

In the letting of municipal contracts, the City Solicitor has a voice as one of the five members of the Board of Awards. Inasmuch as many legal questions are inevitably presented in connection with the letting of contracts, the City Solicitor plays an especially important role as a member of the Board.

All administration measures, that is, proposed legislation which the Mayor or any of the department heads desire at the hands of the City Council, are prepared by the City Law Department. Whether originating in his office or elsewhere, every ordinance before it is presented to the Mayor for his signature is examined and

passed on by the City Solicitor as to its form and legal sufficiency. Not infrequently the City Solicitor or his representative will appear before the Council or one of its committees to urge or oppose pending ordinances. In the fall of 1929 one such hearing, involving the question of the location of a viaduct, was debated daily before the City Council for six weeks. It is interesting to note that although the action which was finally taken was upon the unanimous vote of the Council, the question is after the lapse of more than four years still a matter of heated public discussion. The City Solicitor's burden in assisting Councilmen in the drafting of proposed ordinances is greatly lightened by Dr. Horace E. Flack, Director of the Department of Legislative Reference, recognized as a leading authority in this field.

The Legislature of Maryland meets every second year, and at every session the City has a program of legislation in which it is interested. No loan can be made by the City without the prior authorization of the Legislature, which necessitates the appearance of the City Solicitor or one of his assistants at Annapolis. Legislative procedure is such that as a rule the City Solicitor finds it necessary to have a member of his staff constantly on hand during the entire ninety-day session in order to assure the passage of the legislation which the City deems necessary. But it is not only to insure the enactment of the City's program that the legislative sessions require the close attention of the City Solicitor. There are many bills perfectly innocuous in appearance which on introduction or after amendment are found on close examination to have far-reaching results affecting the City's interest. Unless the utmost vigilance is exercised, these measures, innocent on their face, sometimes cost the City huge sums in tax exemptions and interpose serious obstacles in the path of the City. Not infrequently the City Solicitor's representative is called upon to resist such measures before the committees of the General Assembly.

These diversified interests and activities of the Law Department are in addition to the regular work of its trial division, which prosecutes and defends in the courts hundreds of cases annually. These cases assume an interesting variety. The most numerous suits brought by the City are for the collection of taxes and other

moneys due it. The greatest number of suits against the City involve claims for personal injuries and property damage caused by defects in the public highways, or for damages arising from the flooding of property by broken water mains or overflowing sewers. Numerous claims are made by municipal employes for compensation due to injuries sustained in the course of their employment. It has been the custom in recent years for the City to insure itself against public liability for injuries and damages caused by its trucks and automobiles, but it is the practice nevertheless for an assistant City Solicitor to participate in the defense of such claims.

The City Solicitor is called upon to defend many suits for damages or for injunctions to abate alleged public nuisances. He also prosecutes and defends mandamus suits to compel the performance of the duties imposed on various City officials and department heads, such as the awarding of contracts, the testing of title to public office, and the construction of various provisions of the City Charter.

Whenever a municipal improvement is undertaken which requires the acquisition of property, the title to the property is searched by the City's Law Department, and if the owner and the City cannot agree as to the fair value of the property sought by the City, condemnation proceedings must be instituted by the City Solicitor to have the court determine the sum justly due the owner.

Many of the suits in which the City Solicitor is called upon to participate involve questions of large public importance. These cases not infrequently are carried to the Court of Appeals of Maryland and sometimes to the Supreme Court of the United States. The zoning laws have been a prolific source of litigation during the past decade. Several ordinances were passed and subjected to legal attack at a time when the whole subject was new to the courts and raised novel and far-reaching constitutional problems. Ordinances to establish system for the inspection of meat offered for sale in Baltimore City, to safeguard the milk supply of the City, to regulate the use and sale of gas appliances, and similar measures, involving as they do on the one hand the protec-

tion of the public health and safety, and on the other, important private rights have resulted in prolonged and difficult litigation.

But none of these exacting duties exceeds in difficulty or importance the numerous miscellany of special assignments which are given the City Solicitor from time to time by the Mayor and City Council and the heads of departments. Is there a controversy as to the water rates? It will be referred to the City Solicitor for adjustment. Has a delegation of indignant citizens waited on the Mayor to demand reduction in the street car fares or the rates of the gas company? Let the City Solicitor appear before the Public Service Commission. Is it desired to attract new industry to Baltimore? Let the City Solicitor confer with its representatives and ascertain what particular concessions in the way of public improvements it will demand. Does some influential citizen make a perfectly impossible demand under circumstances which make it embarrassing for the Mayor or other officials concerned to turn him down? The City Solicitor will deal with that, too.

In summary, the City Solicitor is not only the chief interpreter and expounder of the laws of the City, but he plays an important part in the enactment of those laws; he determines in large measure the policy which shall prevail in their execution. Furthermore, he irons out controversies between the several departments of the City government, and in his wider orbit of influence is the handyman upon whose statecraft the entire Administration calls whenever any problem arises, be it large or small, which defies exact classification.